

## NOTICE OF VIOLATION

US EPA RECORDS CENTER REGION 5



436287

Via Certified Mail#  
\_\_\_\_\_  
Via  
Certified  
Mail# \_\_\_\_\_

To: Doug Haan Robert Dowing

Illiana Disposal Partnership Illiana Disposal Partnership

Illiana Transfer #2 Illiana Transfer #2

865 Wheeler Street 865 Wheeler Street

East Chicago, Indiana 46312 East Chicago, Indiana 46312

Case No. 2003-12918-S

Based on investigations by designated representatives of the Indiana Department of Environmental Management (IDEM) on March 4, 2003, Illiana Disposal Partnership (Illiana), who owns Illiana Transfer #2, located at 102 Columbus Drive, East Chicago, Lake County, Indiana ("the Site"), is in violation of the following environmental statutes, rules, and permit:

- A. Pursuant to 329 IAC 11-11-6(c) and permit #45-18, to request a change in facility plans or operation, the permittee must request that the commissioner modify the permit before any permitted changes are made in the approved plans. During the inspection noted above, IDEM observed a change in the facility operations without first requesting that the commissioner modify Illiana's permit.
- B. Pursuant to 329 IAC 11-13-4(a) and Permit #45-18, solid waste must be confined to the designated storage, processing, loading, and unloading areas of the processing facility. The processing facility and adjacent areas must be maintained clean and litter free. During the inspection noted above IDEM observed that solid waste was not confined to the designated storage, processing, loading, and unloading areas of the processing facility, and the processing facility and adjacent areas were not clean and litter free.
- C. Pursuant to 329 IAC 11-13-4(c) and permit #45-18, the solid waste processing facility must be cleaned as necessary to prevent a nuisance or public health hazard. During the inspection noted above, IDEM observed that the facility was not cleaned as necessary to prevent a nuisance or public health hazard.

- D. Pursuant to 329 IAC 10-4-2, no person shall cause or allow the storage, containment, processing, or disposal of solid waste in a manner which creates a threat to human health or the environment, including the creating of a fire hazard, vector attraction, air or water pollution, or other contamination. During the inspection noted above, IDEM observed solid waste, contaminated sediments/soil, being contained and processed in a manner that poses a threat to human health and the environment at the Site.
- E. Pursuant to 329 IAC 10-4-3, open dumping and open dumps, as those terms are defined in IC13-11-2-146 and IC 13-11-2-147, are prohibited. During the inspection noted above, IDEM observed solid waste, contaminated sediments/soil, open dumped at the Site.
- F. Pursuant to IC 13-30-2-1(3), which states a person may not deposit any contaminants upon the land in a place and manner that creates or would create a pollution hazard that violates or would violate a rule adopted by one (1) of the boards Illiana caused and/or allowed sediments/soil, a contaminant, to be deposited at the Site in violation of 329 IAC 10-4-2 and 329 IAC 10-4-3, thus violating IC 13-30-2-1(3).
- G. Pursuant to IC 13-30-2-1(4), a person may not deposit or cause or allow the deposit of any contaminants or solid waste upon the land, except through the use of sanitary landfills, incineration, composting, garbage grinding, or another method acceptable to the solid waste management board. Illiana caused and/or allowed sediments/soil, a contaminant or solid waste, to be deposited at the Site in violation of 329 IAC 10-4-2 and 329 IAC 10-4-3, thus violating IC 13-30-2-1(4).
- H. Pursuant to IC 13-30-2-1(5), a person may not dump, cause or allow the open dumping of garbage or of any other solid waste in violation of rules adopted by the solid waste management board. Illiana caused and/or allowed sediments/soil, a contaminant, to be open dumped at the Site 329 IAC 10-4-2 and 329 IAC 10-4-3, thus violating IC 13-30-2-1(5).

In accordance with IC 13-30-3-3, the Commissioner is required to notify an alleged violator in writing that a violation may exist and offer an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

Entering into an Agreed Order will prevent the issuance of a Notice and Order of the Commissioner under IC 13-30-3-4, or the filing of a civil court action under IC 13-14-2-6. IDEM encourages settlement by Agreed Order, thereby saving time and resources. Timely settlement by Agreed Order may result in a reduced civil penalty. Settlement discussions will also allow the opportunity to present any mitigating factors that may be relevant to the violations. In addition, as provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violation occurred.

If settlement is not reached within sixty (60) days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order containing the actions that must be taken to achieve compliance, the required time frames, and an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

To discuss this matter further, please contact Janet Arnold at 317/232-7201 within fifteen (15) days after receipt of this Notice to request a conference. If settlement is reached, an Agreed Order will be prepared and sent for review and signature.

For the Commissioner:

Date: \_\_\_\_\_ Signed September 22, 2003

Felicia A. Robinson

Deputy Commissioner

Office of Legal Affairs

cc: Lake County Health Department

Lake County Solid Waste Management District

Lake County 2B2 File